

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1205

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In The
United States Court of Appeals
For The Second Circuit

THE UNITED STATES OF AMERICA,

Appellee,

-against-

MAURICE BROWN,

Defendant-Appellant.

*On Appeal from a Judgment of Conviction of the United States
District Court for the Southern District of New York.*

APPELLANT'S APPENDIX

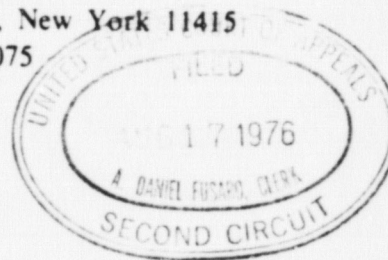
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DOCKET ENTRIES

1a

CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

70 CRIM. 77

C. P. No. 100 Rev.

TITLE OF CASE

THE UNITED STATES

vs.

MAURICE BROWN

ATTORNEYS

For U.S.:

Ronald L. Garrett, AUSA,
791-1936

For Defendant:

Edward S. Panzer
299 B'way, N.Y.C. 349-6126

STATISTICAL RECORD

COSTS

DATE

NAME OR
RECEIPT NO.

REC.

DISB.

2 mailed

Clerk

3 mailed

Marshal

Violation

Packet fee

File 18

200

Law. Group. of stolen money orders.

(in Court)

PROCEEDINGS

2-10-75 filed indictment.

2-10-75 returned to 2-10-75 Frankel, J.

2-10-75 not present (no Atty.). Court enters plea of not guilty. 10
 for motion. Bail previously fixed by the Magistrate at \$2,500
 and recognizance bond continued. Tenney, J.
 assigned to Pierce, J. for all purposes.

2-10-75 fee of appearance of Edward S. Panzer as attorney for deft.

2-10-75 deft's. affirmation & notice of motion for discovery inspection, 3500
 material, disclosure & a bill of particulars.

2-13-75 filed Govt's. notice of readiness for trial on or after 4-1-75.

2-17-75 trial conference held-all present-conference adjourned until 4-2-75 at
 10:00 A.M. Pierce, J.

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- 8-75 Filed MEMO ENDORSED on deft's. motion filed 3-6-75. Counsel for the deft. having represented to the Court at a pre-trial conference on 4-2-75 that he is satisfied with the discovery provided to him by the Govt, the motions within are hereby granted to the extent consented to by the Govt. SO ORDERED....Pierce, J. (mailed notice)
- 8-76 Filed Gov'ts. Request to charge.
- 8-76 Filed Gov'ts. Voir Dire.
- 8-76 Trial began with Gov't opening its case on counts 7 & 8 of the indictment. Motion granted.
- 8-76 Trial cont'd - Jury begins deliberations.
- 8-76 Deliberations cont'd - Jury finds deft. guilty on counts 1 & 2. Court declares mistrial on counts 3, 4, 5, 6, & 8. 1st ordered - Sentence 2-24-76 at 4:30 - Bail cont'd. Pierce J.
- 8-76 Filed Notice of Appearance of Barry J. Teller - 125-10 Queens Blvd. - Rego Gardens, NY Tel. #544-7414. (Copy to US Atty.)
- 8-76 Filed Dfts. Memo. on Venue.
- 8-76 Filed Gov'ts. Requests to charge.
- 8-76 Filed Gov't. Memorandum of Law regarding venue in the Southern District of New York.
- 8-76 Filed CIA Copy 2- Approving payment to Edward S. Panzer dtd. 2-3-76 Pierce J.
- 8-76 Filed Deft's. Memorandum of Law.
- 8-76 Filed Deft's Memorandum of Law.
- 8-76 Filed Deft's. Notice of Motion for an order staying execution of the sentence.
- 8-76 Filed Memo. End. on deft's. motion dtd. 2-25-76. The Court being convinced that there is no grant for appeal & that any appeal from the conviction would be frivolous, deft's. motion is denied; However execution of sentence is stayed until 2-25-76 at 4:00 p.m. Pierce J. (mailed notice)
- 8-76 Filed Memorandum of Law in opposition to deft's. motion to set aside the jury's verdict, by the Gov't/
- 8-76 Filed JUDGMENT & COMMITMENT ORDER - The deft. is hereby committed to the custody of the Atty. Gen. or his authorized representative for imprisonment for a period of (5) YEARS on each of counts 1 and 2 to run concurrently with each other. Execution of sentence is stayed until March 2, 1976 at 5 P.M. at which time deft. is to appear directly to the United States Marshal, One St. Andrews Plaza, 1st Floor, New York, N.Y. Service of sentence. Deft. is continued on present bail until March 2, 1976 at 5 P.M. Counts 3, 4, 5, 6 & 8 are to remain open pending the outcome of the appeal.... Pierce J. Issued Commitment.
- 8-76 Filed deft's. Notice of Appeal from judgment of conviction dtd. 2-24-76. (mailed notice)

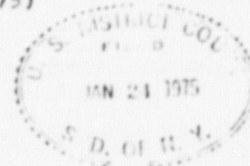
G. E. Thompson

cccc
7676

INDICTMENT (Filed January 24, 1975)

3a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA :

-v- :

INDICTMENT

MAURICE BROWN, :

75 Cr.

Defendant. :

75 CRIM. 77

COUNTS ONE THROUGH NINE

On or about the dates hereinafter set forth, in the Southern District of New York, MAURICE BROWN, the defendant, unlawfully, fraudulently, wilfully and knowingly did transport and cause to be transported, in interstate commerce from New York, New York, to Denver, Colorado, falsely made, forged, altered and counterfeited securities, to wit, the American Express Money Orders described below, knowing the same to have been falsely made, forged, altered and counterfeited:

| <u>Count</u> | <u>Date</u> | <u>Numbers</u> | <u>Amount</u> |
|--------------|-------------------|----------------|---------------|
| 1 | September 3, 1973 | 50-400,591,427 | \$ 50.00 |
| 2 | September 6, 1973 | 50-400,591,428 | \$ 90.00 |
| 3 | August 12, 1973 | 50-400,591,445 | \$180.00 |
| 4 | August 17, 1973 | 50-400,591,446 | \$180.00 |
| 5 | August 17, 1973 | 50-400,591,447 | \$180.00 |
| 6 | August 17, 1973 | 50-400,591,448 | \$140.00 |
| 7 | August 17, 1973 | 50-400,591,449 | \$140.00 |
| 8 | August 21, 1973 | 50-400,591,452 | \$180.00 |
| 9 | August 25, 1973 | 50-400,591,453 | \$180.00 |

United States of America, Plaintiff

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MICROFILM
JAN 27 1975

1 gwkm * * * Hall-direct

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2 MR. MARMARO: No further questions on direct.

3 MR. TELLER: I have no questions.

4 THE COURT: Step down, sir.

5 (Witness excused.)

6
7
8
9 T E N N Y S O N L . H A L L , called as a
10 witness by the Government, being duly sworn by
11 the Clerk, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MARMARO:

14 Q Mr. Hall, have you ever been convicted of
15 any crimes?

16 A Yes, I have.

17 Q What would that have been?

18 A I got convicted of aiding and abetting in the
19 distribution of drugs, and I was convicted I think for
20 criminal possession of a dangerous weapon and stolen
21 property.

22 Q When would the aiding and abetting possession
23 of drug charge have been?

24 A I think approximately about 1971. I am not
25 sure.

1 GWKM

Hall-direct

2 Q And when would the other charges have been?

3 A 1975.

4 Q Was that second charge a felony or was it a
5 misdemeanor?

6 A A misdemeanor.

7 Q And the first charge?

8 A To my knowledge, it was a misdemeanor.

9 Q Could it have been a felony?

10 A It could have.

11 Q What happened with the first charge?

12 A The first charge, the Judge gave me two years
13 in the Phoenix House, drug program.

14 Q Do you use drugs now?

15 A No, I don't.

16 Q Mr. Hall, do you know a man named Maurice Brown?

17 A Yes, sir.

18 Q Is the Maurice Brown you know in the courtroom
19 today?

20 A Yes, sir.

21 Q Would you please speak up.

22 A Yes, sir.

23 Q Would you point him out, please?

24 A The man sitting on my left, next to Mr. Teller.

25 MR. MARMARO: Identification conceded?

1 gwkm

Hall-direct

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2 MR. TELLER: Yes.

3 Q Now, when did you first meet Maurice Brown?

4 A Approximately four years ago.

5 Q Where would that have been?

6 A I met him through going to the racetrack.

7 I was frequenting the racetrack quite a bit, and I met
8 him through going to the racetrack.9 Q How often would you say you saw Mr. Brown
10 during the period of 1972 to 1973?

11 A Occasionally.

12 Q Did there ever come a time when Brown asked
13 you to do a favor for him?

14 A Yes.

15 Q What would that favor have been?

16 A He asked me to cash two American Express money
17 orders.

18 Q Did he tell you why?

19 A He told me that somebody owed --

20 MR. TELLER: Objection.

21 Q Did he give you a reason why he wanted you
22 to cash those money orders for him?

23 A Yes, he did.

24 Q What was that reason?

25 A He told me somebody owed him some money and

1 gwkm Hall-direct 47
2 the, was given to pay him back and that was his reason.

3 Q But why he wanted you to cash them for him?
4 Did he give you a reason for that?

5 A He told me he didn't have an account at the
6 time, and he wanted me to deposit them in my account.

7 Q Do you remember when that would have been?

8 A It was around -- it was in the summer of 1973.

9 Q How many money orders did he ask you to cash
10 for him?

11 A Two.

12 Q What, if anything, happened? How did that
13 come about?

14 A Well, I had seen him on my way going to work
15 because I worked in Manhattan. I had seen him on my
16 way to work, and we had struck up a conversation and
17 he asked me to do him a favor.

18 Q And what, if anything, happened next?

19 A He asked me to do him a favor. So we stopped --
20 I was banking at Manufacturers Hanover Trust, and we
21 stopped at Manufacturers Hanover Trust and I deposited
22 one in my account and they gave me the money then.

23 Q Where was that bank located, do you recall?

24 A Hillside Avenue and I don't know definitely
25 the street. It is on Hillside Avenue.

1 gwkm

2 Q Where is Hillside Avenue located?

3 A In Jamaica, Long Island. Jamaica, Queens.

4 Q What, if anything, happened next?

5 A When we got down town, he said, you know,

6 I have another one, I have another money order. Could
7 you deposit it?"

8 I deposited it in my account.

9 THE COURT: Where?

10 THE WITNESS: Manufacturers Hanover Trust
11 on 50th Street in Manhattan. This was in Manhattan
12 at this present time.

13 I deposited it in my account, and the bank
14 said, "Since you don't have enough money for the money
15 order, we'll hold it."

16 They held it for a few days to see if it was
17 legitimate or whatever.

18 Q Directing your attention back to the money
19 order you cashed in Jamaica, what, if anything, did
20 you do with the money you received from that money order?

21 A I gave the money to Maurice Brown.

22 Q What, if anything, did you do with the money --
23 well, did you ever --

24 THE COURT: Excuse me. You say you gave the
25 money to Maurice Brown. You mean the defendant?

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2 THE WITNESS: Yes.

3 THE COURT: When, in relation to your cashing
4 it at the bank in Jamaica, did you give it to him?

5 THE WITNESS: The same day.

6 THE COURT: When hour-wise in relation to
7 when you deposited it?

8 THE WITNESS: As soon as I come out of the bank.

9 Q Did Maurice Brown go into the bank with you
10 at that time?

11 A No, he didn't.

12 Q Directing your attention to the second money
13 order you cashed, when was that cashed?

14 A It was cashed the same day. It was in
15 Manhattan because at that particular time when we
16 left there was a branch on the way, and we stopped
17 and he asked me when we got down town. When we got
18 down town, I was working at Manhattan Community College,
19 which is in between 50th Street and Broadway, and that
20 is where we got the second check -- money order cashed.

21 Q What happened when you went into the bank
22 the second time?

23 A The second time the bank told me I didn't
24 have enough money in my account to cover it, and he
25 told me to please let it stay here for a few days before

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Hall-direct

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it clears.

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4

Q Did you ever have occasion to withdraw the money after you deposited it?

5

A Yes, I did.

6

Q When was that?

7

8

A I don't know exactly when, but it was a few days after that.

9

Q And how did that come about?

10

11

12

A Well, the bank had told me a specific day to come back that I can receive the money, and I received the money on that particular day.

13

14

Q And what, if anything, did you do with the money?

15

16

A Maurice Brown had drove into the city and I gave him the money when I came out of the bank.

17

THE COURT: Just hold up a minute.

18

19

20

Is it your testimony that when you came to Manhattan and went to the Manufacturers Hanover Bank that Mr. Maurice Brown was with you?

21

THE WITNESS: Yes.

22

THE COURT: But did not go into the bank?

23

THE WITNESS: No, he didn't go into the bank.

24

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THE COURT: You are saying a few days later you went back to that bank in Manhattan?

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THE WITNESS: Yes, that was my bank.

THE COURT: And got the money?

THE WITNESS: Yes, sir.

THE COURT: From that money order?

THE WITNESS: Yes, sir.

THE COURT: And you say when you left the bank you gave it to Mr. Maurice Brown?

THE WITNESS: Yes, sir.

THE COURT: How soon after you left the bank?

THE WITNESS: Give or take maybe ten minutes, five minutes. As soon as I left the bank. It was soon. He was parked in his car.

THE COURT: Go ahead.

BY MR. MARMARO:

Q I show you Government Exhibits 4 and 5. Directing your attention to the exhibits, have you ever seen them before?

A Yes, sir.

Q When did you see them?

A I seen them when Maurice Brown gave them to me to cash for him and I put them in my account.

Q Speak up.

A I seen them when Maurice Brown gave them to me and I put them in my account.

1 gwkm

Hall-direct

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2 Q Directing your attention to --

3 THE COURT: Are you saying those are the
4 money orders which were given to you at this Jamaica --
5 in connection with the Jamaica bank and in connection
6 with the Manhattan bank that you have told us about?

7 THE WITNESS: Yes, sir.

8 THE COURT: Go ahead.

9 Q Does your signature appear on these checks?

10 A Yes, sir, on the back and on the front. I
11 didn't sign the front. I signed the back. I endorsed
12 them and I put them in my account. I didn't sign the
13 front.

14 Q When you received these checks, were they
15 filled out?

16 A The bottom was filled out but in Pay to the
17 Order to, it wasn't filled out.

18 Q And who filled it out?

19 A He signed it, Maurice Brown signed it.

20 Q Directing your attention to Exhibit 5, there
21 is an account number written underneath the signature.
22 Is that your signature?

23 A Yes, sir.

24 Q What, if anything, is familiar about that
25 account number?

2 THE COURT: Sustained. You weren't asked
3 by the defendant, were you?

4 THE WITNESS: No.

5 THE COURT: You said you were asked by a friend
6 of yours?

7 THE WITNESS: I was asked by Maurice Brown.

8 THE COURT: Limit the inquiry by the defendant,
9 the conversation.

10 Q What, if anything, did Maurice Brown ask you?

11 A He asked me could I cash another American
12 Express money order for him?

13 Q What, if anything, did you tell him?

14 A I told him I possibly could.

15 Q And what, if anything, happened next?

16 A A girl I was seeing, I got her to cash one
17 for me.

18 Q What was that girl's name?

19 A Ruby Burns.

20 Q What, if anything, happened next?

21 A We proceeded one day --

22 Q You say "We." Who is "We?"

23 A Maurice Brown and I --

24 THE COURT: Excuse me. You mean next in
25 relation to this particular money order, is that

gwkm

Hall-direct

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1
2 what your question means?

3 MR. MARMARO: In connection with the next favor.

4 THE COURT: Let's see.

5 Did you go with Ruby Burns when she did
6 something with this check or not?

7 THE WITNESS: Yes, sir, I did.

8 THE COURT: Where did you go and what happened?

9 THE WITNESS: We went to pick her up at her
10 home, which is on Northern Boulevard, and we proceeded
11 to go to her bank, which is on Northern Boulevard. I
12 forget the location, the exact location of the bank.

13 Q And what, if anything, happened at the bank?

14 A Ruby got out of the car, she went to the bank,
15 she got the money from the money order.

16 MR. TELLER: I object to that unless he was
17 in the bank with her.

18 THE COURT: Did she take the money order and
19 go into the bank?

20 THE WITNESS: Yes, sir.

21 THE COURT: Were you with her at the time?

22 THE WITNESS: I was in the car with Maurice
23 Brown.

24 THE COURT: Was this in Queens?

25 THE WITNESS: Yes, sir.

2 THE COURT: What happened when she came out?

3 THE WITNESS: When she came out she gave the
4 money to Maurice Brown, we got in his car and we left.

5 Q Did you ever have occasion to go to Ruby
6 Burns' house with Maurice Brown again?

7 A Yes, on one occasion after that.

8 Q What, if anything, happened that time?

9 A I called her up and I told her, like, somebody
10 owed him some money.

11 MR. TELLER: Is this a conversation between
12 him and Ruby Burns? If it is, I ask it be stricken.

13 MR. MARMARO: I argue it is admissible as a
14 conversation --

15 THE COURT: This is a conversation between
16 you and who?

17 THE WITNESS: Ruby Burns at this particular time.

18 THE COURT: Was the defendant present, or
19 not present?

20 THE WITNESS: He wasn't present exactly when
21 we had the conversation.

22 THE COURT: Sustained. Move on to the next.
23 What happened next?

24 MR. WILE: May we approach on that issue?

25 I think it is important.

1 gwkm

2 (In open court.)

3 THE COURT: Objection sustained.

4 BY MR. MARMARO:

5 Q Did you ever have occasion to go with Maurice
6 Brown to Ruby Burns' house a second time?

7 A Yes, I did.

8 Q And what, if anything, happened at that time?

9 A At that time, the second time, that we went
10 to Ruby Burns' house, Ruby came downstairs at her
11 house and she got in the car and we went to her bank.

12 Q Was it the same bank?

13 A Yes, sir.

14 THE COURT: Who is "we"?

15 THE WITNESS: Me, Ruby Burns and Maurice Brown.

16 Q Was it the same bank?

17 A Yes, her bank.

18 Q Where is it located?

19 A It is on Northern Boulevard. I am not sure
20 of the name of the bank.

21 Q What, if anything, happened at the bank?

22 A Me and Maurice Brown stayed in the car. Ruby
23 Burns went to the car and she cashed the money order.24 Q And what, if anything, did you see Ruby do
25 when she got back to the car?

1 gwkm

Hall-direct

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2 A She gave the money to Maurice Brown when she
3 got in the car. I am not too sure if we left at that
4 particular time with Maurice or we didn't.

5 THE COURT: What do you mean by "left?"

6 THE WITNESS: He had his car. I don't know
7 whether we left with him or maybe took the train. I
8 don't know.

9 THE COURT: Do you know for sure what Ruby
10 did when she came out of the bank?

11 THE WITNESS: Yes.

12 THE COURT: What did she do?

13 THE WITNESS: She gave Maurice the money from
14 the money order.

15 THE COURT: All right, go ahead.

16 Q After the event which you just testified to,
17 did you have occasion to see Maurice Brown again?

18 A Yes, I seen him.

19 Q Where was that event?

20 A I seen him at the racetrack.

21 THE COURT: Could you fix a timeframe? The
22 last I heard was summer of 1973.

23 THE WITNESS: The last time I seen him at
24 the racetrack --

25 THE COURT: No, I am talking to counsel.

gwkm 81

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Q When did you stop going out with him?

3

A In 1973.

4

Q When did you first meet Maurice Brown?

5

A In 1973.

6

Q Who introduced you to Brown?

7

A Tennyson Hall.

8

Q Where was that?

9

A I don't recall.

10

Q Did Maurice Brown ever have occasion to

11

visit your home?

12

A Yes.

13

Q Would you please speak up.

14

A Yes.

15

THE COURT: That was in Queens, then?

16

THE WITNESS: Yes.

17

THE COURT: And it is in Queens now?

18

THE WITNESS: My home, yes.

19

Q What, if anything, happened at that time?

20

A That morning?

21

Q Yes.

22

THE COURT: Can you fix the time somewhat

23

better?

24

Q Do you recall when that would have been,

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what year it was or what time of year?

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A 1973.

Q What time of year was it?

A It was in summer.

Q When Maurice Brown visited your home, did he
come alone?

A No, he did not.

Q Who did he come with?

A Tennyson Hall.

Q And what, if anything, happened at that time?

A That is when I cashed the money order.

Q How did that come about?

A Tennyson Hall called me on the phone in the
morning and he said to me that his friend, Maurice --

Q Just testify as to what happened. As a
result of that conversation, what happened?

A I went to the bank.

Q With whom?

A Maurice and Tennyson.

Q And what happened then?

A Maurice gave me the money order, I went into
the bank, I deposited the money order, I came back out
to the car and one of them asked me where was the money,
and I told them that I had deposited the money order
in my account. And then they asked me why did I do

1 gwkm

Burns-direct

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2 that, and I said that I wanted the check to clear first.
3 One of them then said to me that I didn't have to do
4 that.

5 MR. TELLER: I object to that unless we know
6 who said what.

7 THE COURT: Yes. Tell us who said what.

8 THE WITNESS: I can't remember who said
9 exactly what.

10 THE COURT: The conversation occurred in the
11 same -- where were you, in the vehicle?

12 THE WITNESS: Yes.

13 THE COURT: The conversation occurred while
14 all of you were in the vehicle?

15 THE WITNESS: Yes.

16 THE COURT: Tell us as best you can who said
17 what. Otherwise you can tell us the conversation that
18 occurred in the car on the part of either the defendant
19 or Tennyson Hall.

20 Q What, if anything, happened, Miss Burns, when
21 you came back to the car? You were just testifying
22 as to a certain conversation. Do you recall who
23 specifically said it?

24 A No, I do not.

25 THE COURT: Somebody said "Why did you do that?"

1 THE WITNESS: Yes.

2 THE COURT: And your answer was --

3 THE WITNESS: I wanted the money order to
4 clear before.

5 THE COURT: Before what?

6 THE WITNESS: I withdrew the money.

7 THE COURT: Next.

8 Q What, if anything, happened next?

9 A Then I went back into the bank and I withdrew
10 some money.

11 THE COURT: Same day?

12 THE WITNESS: Yes.

13 Q Why did you go back into the bank?

14 MR. TELLER: Objection.

15 THE COURT: Just a moment, please.

16 (Pause.)

17 THE COURT: This bank, was it in Queens?

18 THE WITNESS: Yes.

19 THE COURT: Do you know the name of it?

20 THE WITNESS: Central Queens Saving.

21 THE COURT: Before you went back into the
22 bank, did something happen in the car?

23 THE WITNESS: Something happened. The
24 conversation.
25

1 THE COURT: That is what the lawyer is asking
2 you. What happened that caused you to go back into
3 the bank?
4

5 THE WITNESS: Because one of them said I
6 didn't have to do that.

7 MR. TELLER: I didn't hear the answer.

8 Q Speak up, please.

9 A One of them said I didn't have to do that.

10 MR. TELLER: I object and ask the answer
11 be stricken.

12 THE COURT: I will take it.

13 MR. TELLER: We don't know --

14 THE COURT: One of them said "You didn't
15 have to do it."

16 What did you do, sit there?

17 THE WITNESS: I went back into the bank and
18 withdrew the money.

19 THE COURT: Nobody asked you to go back
20 into the bank, did they?

21 THE WITNESS: Yes.

22 THE COURT: That is what the lawyer is trying
23 to find out. Did you volunteer to go back into the
24 bank or did someone say "Hey, go back into the bank"
25 and, if so, tell us who said it?

1 gwkm

2 morning, and defense counsel may listen to it in our
3 office during the luncheon recess to determine what
4 use he wishes to make of it.

5 THE COURT: All right. There is one other
6 thing. The defendant is not present. Under the rules
7 we can proceed with or without his presence. I propose
8 to proceed.

9 MR. TELLER: Could we wait five minutes?

10 THE COURT: Let me tell you the situation.
11 I have one jury deliberating in another room right now.
12 I have a trial scheduled to commence tomorrow morning.
13 So that it is already fifteen minutes beyond the time
14 set to start the trial. I think fifteen minutes is
15 enough. The defendant should be here on time. Everybody
16 else is here. Nobody has more interest.

17 MR. WILE: We are missing a juror.

18 THE COURT: Then we will put it on the juror.

19 (In open court.)

20 (Defendant is not present.)

21 THE COURT: We will proceed. Call your next
22 witness.

23 MR. MARMARO: Thomas McGlynn.
24
25

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2
3 T H O M A S M c G L Y N N , called as a witness
4 by the Government, being first duly sworn by the
5 Clerk, testified as follows:

6 DIRECT EXAMINATION-

7 BY MR. MARMARO:

8 Q Mr. McGlynn, how are you employed?

9 A I am employed by National Bank of North America.

10 Q What are your duties in connection with your
11 employment?

12 A I investigate all losses sustained by branch
13 system due to checking accounts.

14 Q As part of your duties do you have occasion
15 to examine checks and money orders on behalf of your bank?

16 A Yes.

17 Q How often do you have an opportunity to do that?

18 A Daily.

19 Q Are you familiar with the stamps and markings
20 your bank places on checks or money orders which are
21 cashed or handled through your bank?

22 A Yes, I am.

23 Q Directing your attention to Government Exhibit
24 2 in evidence, can you tell us what it is?

25 A It is an American Express money order in the

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2 amount of \$90.00, payable to Maurice Brown.

3 Q Can you tell from looking at Government Exhibit
4 2 whether this money order has been ever passed
5 through your bank?

6 A Yes, it was cashed at our branch 106, which
7 is located at 216-02 Merrick Boulevard, Springfield
8 Gardens.

9 THE COURT: In Queens?

10 THE WITNESS: Queens.

11 (The defendant entered the courtroom.)

12 (At 9:55 a.m.)

13 Q How can you tell this, sir?

14 A The teller's stamp on the front of the check.

15 THE COURT: Cashed at a branch bank in Queens?

16 THE WITNESS: Yes.

17 Q Looking at Government Exhibit 2, can you tell
18 us what happened to this check after it was cashed at
19 the branch in Queens?

20 A Yes. It was sent in with their daily work
21 to our proof department which is located at 396 Park
22 Avenue South in Manhattan.

23 Q How can you tell that?

24 A From the stamp on the back of the check.

25 Q Can you tell from looking at this money order,

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1 Exhibit 2, what, if anything, happened after it left
2 your center at 392 Park Avenue?
3

4 A At 396 Park, it is broken down into batches
5 and sent out to the Federal Reserve -- various Federal
6 Reserve districts. This money order was forwarded to
7 the Federal Reserve Bank in Denver.

8 Q How can you tell that?

9 A By the stamping on the back.

10 Q Directing your attention to Government Exhibit
11 7 in evidence, can you tell what it is?

12 A Yes. It is an American Express money order
13 in the amount \$180, payable to Maurice Brown.

14 Q Can you tell from looking at Government Exhibit
15 7, whether this money order has ever passed through
16 your bank or has ever been cashed at your bank?

17 A Yes. It was cashed out at Branch 108, which
18 is our St. Albans branch located at 205-02 Linden
19 Boulevard, St. Albans, Queens.

20 Q How can you tell that?

21 A From the teller's stamp on the money order.

22 Q Looking at Exhibit 7, can you tell what
23 happened next?

24 A Yes. It was forwarded in the daily work to
25 our proof department at 396 Park Avenue, and again it

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1
2 was sent out to the various Federal Reserve banks, in
3 this case the Federal Reserve bank, Denver, Colorado.

4 Q How can you tell that?

5 A From the stampings on the back.

6 Q Directing your attention back to Exhibit 2,
7 can you tell what name appears on the front of Exhibit 2?

8 A Maurice Brown.

9 Q And directing your attention to the back of
10 Exhibit 2, can you tell what signatures appear on it?

11 A Maurice Brown.

12 Q And directing your attention --

13 THE COURT: Just a moment.

14 (Pause.)

15 THE COURT: Go ahead.

16 Q Directing your attention to the back of
17 Exhibit 7, do you see a signature on the back?

18 A Yes, Maurice Brown.

19 Q Now, do you see any indication of an account
20 number listed on the back of Exhibit 7?

21 A Yes. 7106-48-4148, which would indicate a
22 special checking account maintained at our Springfield
23 Gardens branch.

24 Q Directing your attention to Government Exhibit
25 16 for identification, can you identify it?

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2 A Yes. It is a central files index card for
3 a special checking account number 7106-48-4148 in the
4 name Maurice Brown.

5 Q Are you familiar with such records?

6 A Yes, I am.

7 Q Are you the custodian of such records?

8 A Yes.

9 Q Was this record made in the ordinary course
10 of your bank's business?

11 A Yes, it was.

12 Q Was it in the ordinary course of your bank's
13 business to make this record?

14 A Yes, it is.

15 MR. MARMARO: I offer Government Exhibit 16
16 into evidence.

17 MR. TELLER: No objection.

18 THE COURT: Received.

19 (Government Exhibit 16 was received
20 in evidence.)

21 THE COURT: What do you say it is again, sir?

22 THE WITNESS: Central files index card.

23 THE COURT: What is a central files index card?

24 THE WITNESS: It is a card maintained in the
25 central files department where if a check is returned,

* * *

2 A These are American Express Company money orders.

3 Q Directing your attention to Government Exhibits
4 1-A through 7-A for identification, do you recognize
5 those exhibits marked for identification?

6 A Yes, I do.

7 Q What are they?

8 A These are photocopies of American Express
9 Company money orders, photocopied from the originals
10 of the items I previously identified.

11 Q Prior to today, did you have an opportunity
12 to compare the copies with the originals?

13 A Yes. These photocopies, Government Exhibits
14 1-A through 7-A, are photocopies of Government Exhibits
15 1 through 7. After they were photocopied I made sure
16 they corresponded to each other, so they were exact
17 copies.

18 MR. MARMARO: At this point we offer 1-A
19 through 7-A.

20 THE COURT: Does 1-A through 7-A reflect one
21 side or both sides of Exhibits 1 through 7 in evidence?

22 THE WITNESS: They reflect both sides, your
23 Honor.

24 THE COURT: Let me see 1-A, please.

25 (Handed to the Court.)

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1 THE COURT: 1-A consists of two pieces and
2 that is true of all the A series?

3 THE WITNESS: That is correct, your Honor.

4 THE COURT: Mr. Teller.

5 MR. TELLER: Judge, I don't understand the
6 purpose of the offer.

7 THE COURT: I don't understand, but if he
8 wishes to do it he can do it. Do you have any objection?

9 MR. TELLER: I have no objection.

10 THE COURT: Received.

11 (Government Exhibits 1-A through 7-A
12 received in evidence.)

13 Q Agent Quinn, after you advised Mr. Brown of
14 his rights, did you commence to interview him?

15 A Yes, I did.

16 Q What, if anything, happened at the time of
17 his interview?

18 A We commenced the interview by furnishing --
19 we used a group of American Express Company money orders.

20 Q Actual money orders?

21 A Photocopies, Exhibits 1-A --

22 Q Directing your attention to Exhibits 1-A, 2-A
23 and 7-A --

24 A Yes.

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2 Q -- can you tell us what, if anything, you
3 did with those exhibits during the interview and what,
4 if any, questions were asked concerning these exhibits?

5 A Yes. I gave Mr. Brown these three photocopies
6 and I asked him to look at them and tell me if he had
7 ever seen them before.

8 Q Would you look at the face of 1-A, 2-A and
9 7-A and tell us the name on the face of each of these
10 exhibits?

11 A 1-A is Pay to the order of Maurice Brown;
12 Exhibit 2-A is Pay to the order of Maurice Brown; and
13 Exhibit 7-A is Pay to the order of Maurice Brown.

14 Q Would you direct your attention to the reverse
15 side of those exhibits, and tell us if there is any
16 signature you see on there.

17 A Yes. Each of the exhibits bears a payee's
18 endorsement of Maurice Brown.

19 Q What, if anything, happened when you showed
20 these exhibits to Mr. Brown?

21 A He told me that this was in fact his signature
22 on each of these three items, on the reverse side.

23 Q Did he tell you what, if anything, he had
24 done with these items?

25 A He said that he probably deposited them into

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2 his bank.

3 Q Did he tell you where, if anywhere, he had
4 received these items?

5 A I asked him where he may have gotten them.
6 He said he did not recall. I also asked him about
7 the names of the senders, and the addresses which appear
8 on the face of these three items, and he said none of
9 them were familiar to him.

10 Q Directing your attention to Exhibits 4-A and
11 5-A in evidence, did you have occasion to show those
12 exhibits to Mr. Brown that day?

13 THE COURT: Just a moment.

14 (Pause.)

15 THE COURT: All right.

16 A Yes, these two exhibits were also displayed
17 to Mr. Brown.

18 Q Would you read the names on the exhibits.

19 THE COURT: Payees' names?

20 MR. MARMARO: Payees' names and senders' names.

21 A Exhibit 4-A is Pay to the order of Tennyson
22 Hall. The sender's name I am afraid is scrawled. I
23 can't read it. The address on it is 194-26 Sears
24 Avenue, Boston, Massachusetts.

25 Exhibit 5-A is Pay to the order of Tennyson

* * *

2 I would compare it and destroy my notes.

3 Q These statements were made at your office
4 between 9:15 and 10:50 a.m. on 10/3/74, is that right.

5 A 9:15 and 10:50 a.m., yes.

6 MR. TELLER: No further questions.

7 THE COURT: Any more examination by the
8 Government?

9 MR. MARMARO: No.

10 THE COURT: Step down, please.

11 (Witness excused.)

12 MR. MARMARO: I call Susan Monserrate.

13 MR. TELLER: Judge, may we approach the bench
14 one minute?

15 THE COURT: Yes.

16 (At the bench.)

17 MR. TELLER: If the Assistant U. S. Attorney
18 is calling fingerprint experts, the defense is willing
19 to stipulate that the fingerprints in question are
20 Maurice Brown's.

21 MR. MARMARO: I think for the record we should
22 make clear the fingerprint evidence will relate to a
23 check not listed in the indictment. It will be offered
24 in the nature of a similar act. It has not yet been
25 received in evidence. I certainly would be happy to

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2 show it to counsel now at this time so he can examine it.

3 MR. TELLER: For the record, I will object
4 to any similar acts coming in.

5 THE COURT: Make your offer. Maybe we can
6 deal with it now.

7 MR. MARMARO: Through my witness?

8 THE COURT: No, make your offer of proof in
9 connection with this particular check.

10 MR. MARMARO: We offer Government Exhibit 8
11 for identification into evidence. It is an American
12 Express money order. Its serial number is 50-400,591,450.

13 MR. TELLER: May I get the indictment for
14 a second? May I be excused for one second?

15 THE COURT: Here it is.

16 MR. TELLER: You are offering this now?

17 MR. MARMARO: I am offering it.

18 MR. TELLER: I object to the offer in evidence.

19 THE COURT: Let's hear the offer. Make your
20 offer.

21 MR. MARMARO: We offer Government Exhibit 8
22 for identification into evidence.

23 THE COURT: It is not listed. Do you want
24 to explain it?

25 MR. MARMARO: There has been testimony that

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2 this is a group of the forty money orders stolen from
3 this shipment of American Express money orders. We
4 would offer to show the defendant's knowledge and
5 intent as to the remaining money orders. This money
6 order does not have the defendant's name on it at all.
7 It is made out to an individual. The address is
8 illegible. In no way can the defendant be connected
9 with this money order except through the fingerprint.
10 The fact his fingerprint is on it is probative of his
11 knowledge and intent with respect to the other money
12 orders.

13 THE COURT: You object?

14 MR. TELLER: Yes.

15 THE COURT: At the time the offer is made I
16 will overrule your objection and receive it.

17 Let's see what that stipulation is. The
18 stipulation is that if the Government fingerprint
19 expert were called to testify he would testify -- first
20 of all, he is an expert?

21 MR. TELLER: Right.

22 THE COURT: And if called to testify as an
23 expert he would testify he had examined certain checks
24 which will be later, I gather, identified, and that he
25 found fingerprints thereon which were the fingerprints

2 Q Do you know a man named Maurice Brown?

3 A Yes.

4 Q Do you see Maurice Brown in this courtroom
5 today?

6 A Yes.

7 Q Would you please point him out?

8 A Here he is sitting at the defense counsel table.

9 Q Would you describe to us what he is wearing.

10 A He is wearing glasses, yellow shirt.

11 THE COURT: At the attorney's table?

12 THE WITNESS: Yes.

13 THE COURT: Indicating the defendant.

14 Q When did you first see Maurice Brown?

15 A Many years ago. I can't say exactly. It
16 was quite a long time ago.

17 Q Directing your attention to approximately
18 1970 and 1971, did you have occasion to see Maurice
19 Brown during that period?

20 A Yes.

21 Q Where would that have been?

22 A At one time I met him at the racetrack.

23 Q Did you have any conversations with Brown
24 at the racetrack during this period?

25 A Yes.

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2 Q What, if anything, was said?

3 A We discussed people we know, horses. We
4 talked generally.

5 Q What, if anything else, was said?

6 A He asked me about -- he asked me if I ever
7 come in contact with any kind of checks or bank books
8 or anything of that nature, if I did to give it to him
9 and he would show me how to make some money.

10 Q How many times did he ask you these things?

11 A This was most every time that I saw him.

12 THE COURT: Just a moment.

13 (Pause.)

14 THE COURT: Proceed.

15 Q As a result of these conversations, did you
16 ever get in touch with Brown?

17 A Yes.

18 Q What, if anything, happened in that connection?

19 A The first time I got in contact with him,
20 I came across a check in my house and I called him
21 about it. He came down the next day and I showed him
22 the check.

23 Q What type of check was it?

24 A It was a personal check from a friend of my
25 father's to my father, a birthday present.

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Q What, if anything, happened when Brown came to your house?

A I showed him the check and he took -- he wrote down the information off the check, anyway.

Q What did he write down, what sort of information?

A He wrote down the account number, noted the bank it was from, and the signature.

Q Did he tell you why he was doing this?

A Not then. He told me he would use this.

Q Did he tell you what he would use it for?

A To make some money off it, to cash a check on.

Q Did he tell you how he was going to make some money off it?

A Yes. He said that he would -- yes, that he would get a payroll check and draw on this particular account.

Q What, if anything else, happened? Did you show Mr. Brown anything else?

A Yes. I showed him a stack of cancelled checks that my father had.

Q What, if anything, did Brown do with these checks?

A He looked at them and took one of them. I

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2 said, "you can't have that one." He said, "Look, I told
3 you before, man, that it is all right what I am doing."

4 I said, "You can't have that."

5 He said, "Listen, look, I explained to you
6 before your father is not going to lose any money.
7 If you hold up a bank and they take any money do you
8 lose your money?"

9 I said no. He said, "the same way with a check.
10 If I draw on your father's account the insurance
11 company will pay for it. The best they can do is
12 change your father's bank account number."

13 Q What did you do next?

14 A I said, "okay. Are you sure this is all right?"
15 He said, "yes."

16 So I let him have the checks.

17 Q What, if anything, happened next?

18 A Right then, I asked him, "explain to me what
19 is happening with this."

20 He sat down and he explained to me how it is
21 done.

22 MR. TELLER: I will object at this point.
23 I will object to this testimony unless it is connected
24 with this case.

25 THE COURT: I daresay counsel is offering it

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2 as bearing on one of the elements the prosecution has
3 to prove, to wit, knowledge and intent.

4 is that so?

5 MR. MARMARO: That is correct, your Honor.

6 MR. TELLER: You are denying my objection?

7 THE COURT: Objection is overruled.

8 MR. MARMARO: Would you read back the last
9 question?

10 (Question read.)

11 Q What, if anything, was said at that time by
12 Brown?

13 A He said, "Listen, look." He said, "I have
14 a check here."

15 And he showed me a blank check.

16 He said, "Here's your father's check. Here's
17 what I do. On the face of the check I will put pay
18 to your father's name. I will put an amount in here.
19 I will sign on the righthand corner any kind of name."
20 He said, "On the back of the check I will put your
21 father's signature and account number."

22 "And I will go to his bank and cash it, but
23 he won't lose no money and everything will be all right."

24 Q What, if anything, happened?

25 A After he took that he asked me did I have

1 gwkm

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2 any money.

3 I said no. This was uptown where I used
4 to live. He said "There is a bank on 125th Street.
5 He said, "Listen, look, watch, I am going to make out
6 a check for you."

7 He had several blank checks and he made out
8 one. He said, "Listen, I want you to take this in
9 this bank."

10 I said, "Man, I can't do it." He said, "Do
11 it, just follow me."

12 I said "What if the man asks me questions?"

13 He said, "All you have to do is go to the
14 youngest teller in the bank, present it to him and be
15 like a man, present yourself, use your wit," which I did.

16 Q And what did you do?

17 A I went in the bank.

18 Q And what happened next?

19 A I noticed the youngest teller there. I
20 presented the check to him and he cashed it.

21 Q And what, if anything, did you do with the
22 money?

23 A I brought it back to the car and we split
24 it down. He kept half and gave me half.

25 Q Did you have any other dealings with Mr. Brown?

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2 A Yes.

3 Q In that connection did you ever visit his home?

4 A Yes.

5 Q What, if anything, happened when you visited
6 his home?

7 A I visited his home quite regularly.

8 THE COURT: I am going to ask you to come
9 up a moment. First let me instruct the jury that at
10 a later point I am going to have an instruction for
11 you concerning what use you may make of this testimony,
12 and I simply caution you that the evidence which you
13 are hearing, if you credit it, may not be used to
14 conclude that the defendant committed the crimes charged
15 here in this indictment. You may, if you choose to,
16 make use of this evidence in connection with some other
17 aspects of the case which I will charge you about
18 later. That is enough for now.

19 Couns 1, come up one moment, please.

20 (At the bench.)

21 MR. WILE: Can we ask for a slight amendment
22 to that last instruction? it is incorrect to say they
23 may not consider the testimony in deciding whether or
24 not he committed these crimes in this indictment. Of
25 course they can consider it in determining whether he

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2 Q What did you see? How did that happen?

3 A I seen him with account numbers, with checks
4 that have account numbers on them.5 Q Did you see him ever receive it from another
6 person?

7 A Yes.

8 Q Now, did you --

9 THE COURT: How long ago was that?

10 THE WITNESS: This is in 1971, 1972.

11 Q Did you have other dealings with Brown during
12 this period?

13 A Pertaining to checks?

14 Q Pertaining to checks.

15 A Yes.

16 Q And in that connection, did you have occasion
17 to go to banks with Brown?

18 A Yes.

19 Q Did he give you any advice?

20 A He always gave me advice.

21 Q What sort of advice?

22 A He was my teacher.

23 Q What did he teach you?

24 MR. TELLER: Pardon me, Judge. I didn't hear
25 that.

**UNITED STATES COURT OF APPEALS
SECOND CIRCUIT**

THE UNITED STATES OF AMERICA,

Appellee,

- against -

MAURICE BROWN,

Defendant-Appellant.

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

I, Reuben A. Shearer being duly sworn,
depose and say that deponent is not a party to the action, is over 18 years of age and resides at
211 West 144th Street, New York, New York 10030


That on the **17th** day of **August** 19 **76** at **1 ST. Andrews Plaza New York, N.Y.**

deponent served the annexed ~~Appendix and briefs~~ upon

Robert Fiske, J.,
U.S. Attorney- Southern District

the **Appellee** in this action by delivering a true copy thereof to said individual
personally. Deponent knew the person so served to be the person mentioned and described in said
papers as the herein.

Sworn to before me, this **17th**
day of **August** 19 **76**


Reuben Shearer

Beth A. Hirsch